

Claims 1-13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons set forth on pages 2 and 3 of the Office Action. The Office Action indicates that the phrase "removing cations from a lactic raw material" in claim 1 could be any of three types of possible cations. While it may be possible to conduct a process to remove all cations from the starting material, one of ordinary skill in the art would readily ascertain that the intended cations to be removed are metal cations, and preferably alkaline or alkali metal cations. Thus, it is respectfully submitted that the claim as drafted is completely understandable so that the indefiniteness rejection should be withdrawn.

The Office Action also indicates that claim 1 implies that it is possible to remove cations without removing anions. Applicants respectfully disagree. All that Applicants recite in claim 1 is that "alkaline metal cations" are removed. Although the cations are typically removed along with anions so that the new material is "decationized or completely deionized, *i.e.*, substantially free of cations and anions" (*See, e.g.*, Specification at page 6, line 4), the important feature of the invention is that the cations are removed.

The Office Action further indicates that if one begins with a solution of unspecified pH and removes cations one at a time, the pH will only reach 1-4.5 if: (a) the solution is initially at a pH below 1.0, and (b) the cations in question are protons. Applicants respectfully submit that if anions (such as  $\text{OH}^-$ ) are also removed when the cations are removed (as is typically the case) to achieve a solution "substantially free of cations and anions," (*See, e.g.*, Specification at page 6, line 4), it is possible to achieve a solution with a pH of 1-4.5 even if the initial pH is above 1.0 and the cations removed are other than protons.

The Office Action indicates that where claim 1 refers to "a sufficient temperature" that this could mean that the lactic material should not be frozen, or it could have some other meaning. Applicants respectfully submit that the phrase "a sufficient temperature" merely means that the substantially deionized lactic raw material must be contacted with an anionic resin having a hydrophobic matrix at a temperature sufficient to remove the GMP from the substantially deionized lactic raw material. This will generally occur at a temperature of less than 50° C, preferably between 0° C and 15° C, as taught in the specification at page 4, lines 27-28.

Claim 2 has been amended to remove the superfluous word "to" and to grammatically clarify the language in line 3, as suggested by the Examiner on page 3 of the Office Action. Claim 2 has been further amended to separate the Markush group members

into lettered paragraphs, as suggested by the Examiner on page 3 of the Office Action. Thus, all section 112 rejections have been overcome and should be withdrawn.

Claims 1-2 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,968,586 to Etzel ("Etzel '586") or over WO 99/18808 to Etzel ("Etzel '808"). Applicants note that the Examiner states that he has not received EPO Application No. 97201607.5, nor has he received an English translation of PCT Publication No. WO 98/53702. Applicants enclose herewith a certified copy of EPO Application No. 97201607.5, along with an English translation thereof, and an English translation of PCT Publication No. WO 98/53702. As these documents fully disclose and support the features of the present claims, Applicants are entitled to a priority date that predates the Etzel '586 and the Etzel '808 patents. Accordingly, these references do not constitute prior art and cannot be relied upon to reject the claims. For the above reasons, Applicants respectfully request the rejection under 35 U.S.C. § 103 be reconsidered and withdrawn.

Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner disagree, Applicants respectfully request that the Examiner call the undersigned attorney for Applicants to arrange for a telephonic or personal interview to discuss any remaining issues and expedite the allowance of this application.

No fees are believed due for this submission. Should any fees be due, however, please charge the required fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Date

10/11/00

Respectfully submitted,

  
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